

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, APRIL 4, 2017

The Council of the City of San José convened in Regular Session at 9:33 a.m. in the Council Chambers at City Hall.

Present: Councilmembers - Arenas, Carrasco, Davis, Diep, Jimenez, Jones, Khamis, T. Nguyen, Peralez, Rocha; Liccardo.

Absent: Councilmembers - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:40 a.m. to a Closed Session in Room W133; (A) to confer with Legal Counsel pursuant to subsection (c) of Section 54956.9(d)(4) of the Government Code with respect to anticipated litigation in one (1) matter; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) In re: Claim of Hernandez; Amount of Money or Other Relief Sought: Administrative Appeal; (2) In re: Claim of Hopp; Amount of Money or Other Relief Sought: Administrative Appeal; (3) Ward, Debra and Patricia Tapia v. City of San José, et al; Names Of Partie(s) Involved: Debra Ward, Patricia Tapia, City of San José, Fire Chief William McDonald, Fire Chief Ruben Torres; Court: Superior Court of California, County of Santa Clara; Case No.: 1-13-CV-253758; Amount of Money or Other Relief Sought: Damages according to proof; (4) Seibert v. City of San José, et al.; Names Of Partie(s) Involved: Grant Seibert, City of San José, San José Civil Service Commission, Debra Figone as San José City Manager, Alex Gurza as San José Director of Employee Relations, William McDonald as Fire Chief for San José Fire Department; Court: Court of Appeal, Sixth Appellate District; Case No. H040268; Amount of Money

CLOSED SESSION (Cont'd.)

or Other Relief Sought: Damages according to proof; (5) City of San José v. City of Santa Clara; Names Of Partie(s) Involved: City of San José, City of Santa Clara; Court: Superior Court of California, County of San Mateo; Case No.: 16-CIV-02303; Amount of Money or Other Relief Sought: Writ of Mandate and Complaint for Declaratory Relief; (6) City of Santa Clara v. City of San José, et al.; Names Of Partie(s) Involved: City of Santa Clara, City of San José, City of San José Council, Does I through X; Federal Realty and Investment Trust, and Does 1-20; Court: Superior Court of California, County of San Mateo; Case No.: 16-CIV-00547; Amount of Money or Other Relief Sought: Writ of Mandate and Complaint for Declaratory Relief; (7) IFPTE Local 21 v. City of San José; Names of Partie(s) Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages According to Proof; (8) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof; (9) OE#3 v. City of San José; Names Of Partie(s) Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-900-M; (10) ABMEI v. City, et al.; Names of Partie(s) Involved: Association of Building, Mechanical and Electrical Inspectors, City of San José; Court: State of CA Public Employment Relations Board; Case No.: UPC SF CE 1358 M; Amount of Money or Other Relief Sought: Damages According to Proof; (11) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; H040979; H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (12) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (13) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (14) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: City of San José, John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B.

CLOSED SESSION REPORT (Cont'd.)

(15) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B; (16) People of the State of California, et al. v. City of San José, et al.; Names of Partie(s) Involved: The People of the State of California ex rel. San José Police Officers Association, City of San José, City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint In Quo Warranto; (17) Peter Constant, Steven Haug and Silicon Valley Taxpayers' Association v. Superior Court; Names Of Partie(s) Involved: Peter Constant, Steven Haug, Silicon Valley Taxpayers' Association, a California non-profit Corporation, Proposed Intervenors, Appellants and Petitioners, Superior Court of California, County of Santa Clara, Respondent, the People of the State of California ex. Rel. San José Police Officers Association, Plaintiff, Respondent and Real Party in Interest, City of San José, City Council of San José, Defendants, Respondents and Real Parties in Interest; Court: Sixth District Court of Appeal; Case No.: H043540; Amount of Money or Other Relief Sought: Petition for Writ of Mandate or, In the Alternative, Supersedeas, or Other Appropriate Relief; (18) San José Retired Employees Association, et al. v. City of San José, et al; Names of Partie(s) Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, the Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-268085; Amount of Money or Other Relief Sought: Change to City medical plan; (C) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF;

CLOSED SESSION REPORT (Cont'd.)

(9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc.; Name of Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 12:10 p.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

Present: Councilmembers - Arenas, Carrasco, Davis, Diep, Jimenez, Jones, Khamis, T. Nguyen, Peralez, Rocha; Liccardo.

Absent: Councilmembers - All Present.

INVOCATION

Santa Clara County Poet Laureate, Arlene Biala, introduced 11-year-old poet, America Yulissa Cihuapilli Irineo (Cihuapilli), who presented a poem for National Poetry Month.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance accompanied by 6th grade students from Ocala STEAM Academy.

CEREMONIAL ITEMS

1.1 Presentation of a proclamation recognizing April 4, 2017 as National Service Day in the City of San José. (Mayor)

Mayor Sam Liccardo and all councilmembers presented a proclamation to AmeriCorps and City Year Team Member representatives recognizing April 4, 2017 as National Service Day in the City of San José.

ORDERS OF THE DAY

Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sergio Jimenez and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

CLOSED SESSION REPORT

None provided.

CONSENT CALENDAR

Upon motion by Councilmember Donald Rocha, seconded by Councilmember Tam Nguyen and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

2.1 Approval of Council Minutes:

None provided.

2.2 Final Adoption of Ordinances.

None provided.

2.3 Approval of Council Committee Minutes.

- (a) Transportation and Environment Committee Minutes of March 6, 2017.
(Carrasco)**
- (b) Neighborhood Services and Education Committee Minutes of March 9, 2017.
(Rocha)**
- (c) Rules and Open Government Committee Minutes of March 15, 2017.
(Mayor)**

Documents Filed: (1) Transportation and Environment Committee Minutes, dated March 6, 2017. (2) Neighborhood Services and Education Committee Minutes, dated March 9, 2017. (c) Rules and Open Government Committee Minutes, dated March 15, 2017.

Action: The Council Committee Minutes were accepted. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

Councilmember Johnny Khamis presented a report on his trip to China with the Silicon Valley Chinese Business Association.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 Approve the Second Amendment to the Agreement for Rapid Re-Housing Services between the City of San José and San José Streets Team to increase the maximum funding by \$230,000, from \$1,950,000 to \$2,180,000, and to retroactively extend the Place-Based Rapid Re-Housing Program by four (4) months from March 1, 2017 through June 30, 2017. CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts, Services that involve no physical changes to the environment. (Housing)

Documents Filed: City Council Action Request from Director of Housing Jacky Morales-Ferrand, dated April 4, 2017, requesting approval of the Second Amendment to an Agreement.

Councilmember Donald Rocha pulled Item 2.7 regarding plans to open the RFP. Director of Housing Jacky Morales-Ferrand responded to Councilmembers' questions.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Johnny Khamis and carried unanimously, the Second Amendment to the Agreement for Rapid Re-Housing Services between the City of San José and San José Streets Team to increase the maximum funding by \$230,000, from \$1,950,000 to \$2,180,000, and to retroactively extend the Place-Based Rapid Re-Housing Program by four (4) months from March 1, 2017 through June 30, 2017, was approved. (11-0.)

2.8 As recommended by the Rules and Open Government Committee on March 29, 2017:

- (a) Approve the Dia del Niño Book Giveaway scheduled on Saturday, April 29, 2017, as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Carrasco)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 30, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Dia del Niño Book Giveaway as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.9 As recommended by the Rules and Open Government Committee on March 29, 2017:**
- (a) Approve the 12th Annual West Valley Senior Walk scheduled on Friday, April 14, 2017, as a City Council sponsored Special Event and approve the expenditure of funds.**
 - (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**
- CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Jones)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 30, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The 12th Annual West Valley Senior Walk as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.10 As recommended by the Rules and Open Government Committee on March 29, 2017:**
- (a) Retroactively approve the César Chavez Day Flag Raising and Reception scheduled on Thursday, March 23, 2017, as a City Council sponsored Special Event and approve the expenditure of funds.**
 - (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 30, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: Retroactive approval of the César Chavez Day Flag Raising and Reception as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.11 As recommended by the Rules and Open Government Committee on March 29, 2017:**
- (a) Approve the Great American Litter Pick-up scheduled for Saturday, April 22, 2017, as a City Council sponsored Special Event and approve the expenditure of funds.**
 - (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 30, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: Approval of the Great American Litter Pick-up as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.12 As recommended by the Rules and Open Government Committee on March 29, 2017:**
- (a) Retroactively approve Coffee with a Cop scheduled on Saturday, March 25, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
 - (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.**
- CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Jones/Davis)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 30, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: Retroactive approval of the Coffee with a Cop as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.3 Adopt a resolution setting a new fee schedule for City-Generated Zone Towing Services and authorizing the City Manager to execute amendments to the Agreements for City-Generated Zone Towing Services with rates not to exceed the allowable tow fees under the State of California Highway Patrol Tow Services Agreement for the Golden Gate Region- San José Office to take effect April 5, 2017, with the below contractors:**

- (a) Matos Auto Towing & Transport**
- (b) City Towing, Inc.**
- (c) Century Tow**
- (d) Motor Body Company, Inc.**
- (e) Courtesy Tow Services, Inc.**
- (f) Alongi Brothers, Inc.**

CEQA: Not a Project, File No. PP10-067(a), Non-Project Specific Funding Mechanism, Increase or Adjustment to Fees, Rates & Fares. (Planning, Building and Code Enforcement)

(Continued from 3/21/17 – Item 3.4)

Documents Filed: (1) Supplemental memorandum from Director, Planning, Building and Code Enforcement Harry Freitas, dated March 28, 2017, providing a revised effective date for the new fee schedule (2) Letter from President, Century Tow, W. Spencer, dated March 28, 2017, asking that rate increases be approved.

Diane Buchanan, Deputy Director, Planning, Building and Code Enforcement, Lieutenant Troy and Tow Liaison, Hector Ortiz, offered a presentation and responded to questions.

Public Comments: Offering support to staffs' recommendations, were Kenny Carvalho, City Towing, Inc.; Nick Alongi, Alongi Brothers; and Russell Alongi, MotorBody.

3.3 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78118, entitled: "A Resolution of the Council of the City of San José Adopting a Fee Schedule for Tow Service Agreements", was adopted. (11-0.)

3.4 **Accept the Status of Open Audit recommendations as of December 2016. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Staff Reports, Assessments, and Annual Reports that involve no approvals of any City Actions. (City Auditor)**

Documents Filed: Memorandum from City Auditor Sharon Erickson, dated March 24, 2017, providing the status of open audit recommendations.

City Auditor Sharon Erickson provided a presentation.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sylvia Arenas and carried unanimously, the Status of Open Audit recommendations as of December 2016, was accepted. (10-1. Absent: Jimenez.)

- 3.5 (a) **Hold a Tax Equity and Fiscal Responsibility Act ("TEFRA") Public Hearing for the issuance of up to \$15,500,000 in tax-exempt revenue bonds ("Bonds") by California Enterprise Development Authority (the "Authority") for the purpose of financing and refinancing the cost of acquiring, constructing, installing, improving, equipping, and furnishing school facilities located at 14271 Story Road, San José, California for the benefit of The Foundation for Hispanic Education, a California nonprofit public benefit corporation and an organization described under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and**
- (b) **Consideration of a resolution approving the issuance of Tax-Exempt Revenue Bonds by the Authority in a principal amount of up to \$15,500,000 to be used to finance and refinance the educational facilities and to pay certain expenses incurred in connection with the issuance of the Bonds.**

CEQA: Not a Project, File No. PP10-067, Non-Project Funding Mechanism. Council District 5. (Finance)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated March 13, 2017, recommending holding a TEFRA hearing and consideration of a resolution.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis and carried unanimously, Resolution No. 78119, entitled: "A Resolution of the Council of the City of San José Approving the Issuance of Tax-Exempt Revenue Bonds by the California Enterprise Development Authority in an Aggregate Principal Amount Not to Exceed \$15,500,000 to Finance and Refinance School Facilities Owned by the Foundation for Hispanic Education", was adopted. (10-1. Absent: Jimenez.)

3.6 Accept staff report and public input on the Annual Summary of Upcoming Labor Negotiations. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Annual Reports that involve no approvals of any City Actions. (City Manager)

Documents Filed: Memorandum from City Manager Norberto Dueñas, dated March 24, 2017, recommending acceptance of the staff report and public input.

Director of Employee Relations, Jennifer Schembri provided a presentation.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, the staff report and public input on the Annual Summary of Upcoming Labor Negotiations was accepted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Approve an ordinance to:

- (a) Amend Title 4 of the San José Municipal Code to extend the expiration of the temporary partial suspension for “office, research and development” and “data center” uses (SJMC 4.46.039.10 and SJMC 4.47.095) from March 31, 2017, to March 31, 2019.
- (b) Amend Title 4 of the San José Municipal Code to create a temporary partial suspension from the Commercial-Residential-Mobilehome Park Building Tax (SJMC 4.47), beginning April 1, 2019, from 3% to 0.5% for the following uses:
 - (1) Office, General Business (SJMC 20.200.813)
 - (2) Office, Research and Development (SJMC 20.200.818)To allow the City Council the flexibility to review the uses included and verify that these sectors are being accurately represented, this provision shall sunset March 31, 2024.
- (c) Amend Title 4 of the San José Municipal Code to suspend the Commercial-Residential-Mobilehome Park Building Tax (SJMC 4.47), and create a temporary partial suspension of the Building and Structures Construction Tax (SJMC 4.46), beginning April 1, 2019, to achieve a rate of 1% for Data Center uses as defined by SJMC 20.200.265, including a provision that this suspension shall sunset March 31, 2024.
- (d) Amend Title 4 of the San José Municipal Code to amend section 4.82.320 to authorize the City Manager or designee to compromise or settle tax refund claims for amounts exceeding fifty thousand dollars (\$50,000.00) and up to five hundred thousand dollars (\$500,000.00), with the written approval of the City Attorney.

CEQA: Not a Project, File No. PP10-068(c), General Procedure & Policy Making, Code or Policy change that involves no changes in the physical environment. (Economic Development)

**[Community and Economic Development Committee referral 1/23/17 – Item (d)(2)]
(Deferred from 2/14/17 – Item 4.1, 2/28/17 – Item 4.1, et al, and 3/28/17 – Item 4.1)**

4.1 (Cont'd.)

Documents Filed: (1) Supplemental joint memorandum from Director, Planning, Building and Code Enforcement Harry Freitas, Director of Transportation Jim Ortbal and Deputy City Manager/Director of Economic Development Kim Walesh, dated March 29, 2017, providing additional feedback from the development community and additional analysis. (2) Letter from Patricia Sausedo, Executive Director, NAIOP Silicon Valley, dated April 4, 2017, offering approval to staffs' recommendations.

Public Comment: John-Michael Dyer expressed support to staffs' recommendations.

Deputy City Manager/Director of Economic Development Kim Walesh provided a presentation, and Senior Business Development Manager Chris Burton offered additional recommendations and rationale.

Motion: Councilmember Chappie Jones moved approval of the staff's supplemental memorandum dated March 29, 2017. Vice Mayor Magdalena Carrasco seconded the motion.

Councilmember Sylvia Arenas left the meeting at approximately 3:30 p.m.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 29897, entitled "An Ordinance of the City of San José Amending Chapter 4.47 of Title 4 of the San Jose Municipal Code By Adding New Sections 4.47.096 and 4.47.097 to Provide Partial Suspension of the Tax Imposed Under Chapter 4.47 in Order to Apply A Reduced Rate of Tax for Offices and Data Centers, Amending Chapter 4.46 of Title 4 of the San Jose Municipal Code By Adding A New Section 4.46.039.12 to Provide Partial Suspension of the Tax Imposed Under Chapter 4.46 in Order to Apply a Reduced Rate of Tax for Data Centers and Amending Section 4.82.320 of Chapter 4.82 of Title 4 to Authorize the City Manager to Approve Tax Refunds Over \$50,000 and Less Than \$500,000", passed for publication, including the supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas; Director of Transportation, Jim Ortbal and Deputy City Manager/Director of Economic Development Kim Walesh, dated March 29, 2017. (10-1. Absent: Arenas.)

- 4.2
- (a) **Approve staff's recommendation to donate up to 20 surplus light duty vehicles, estimated value at \$21,180, to Goodwill of Silicon Valley (Goodwill SV) which will be distributed to flood victims that lost their vehicles during the Coyote Creek Flood in accordance with San José Municipal Code 4.16.250.**
 - (b) **Waive the requirement in Council Policy 1-20, section 4.b: "Notices donation of surplus personal property at a Rules and Open Government Committee meeting with a 30-day period to receive requests for donations and reaches out to potential donees."**

CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Public Works)

4.2 (Cont'd.)

Documents Filed: City Council Action Request from Director of Public Works Barry Ng, dated April 4, 2017, recommending approval of staff's recommendation and waiving the requirement in Council Policy 1-20.

Deputy City Manager, Civic Innovation & Digital Strategy, Kip Harkness provided an introduction, and Public Works Deputy Director, Joe Garcia and Jeff Ruster, Director of Strategic Partnerships, continued the presentation.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, staff's recommendation to (a) donate up to 20 surplus light duty vehicles, estimated value at \$21,180, to Goodwill of Silicon Valley (Goodwill SV) which will be distributed to flood victims that lost their vehicles during the Coyote Creek Flood in accordance with San José Municipal Code 4.16.250; and (b) Waive the requirement in Council Policy 1-20, section 4.b: "Notices donation of surplus personal property at a Rules and Open Government Committee meeting with a 30-day period to receive requests for donations and reaches out to potential donees" was approved, *with the option to donate up to twenty additional light duty vehicles as they become available.*

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) **Approve the Sixth Amendment to the AMS-SJC-JV ("AMS") Airport Retail Concession Agreement (the "AMS Agreement") to:**
- (1) **Incorporate the retail concession areas (stores) currently operated by WDFG North America LLC ("WDFG") under the same terms and conditions as the current Airport Retail Concession Agreement (the "WDFG Agreement");**
 - (2) **Provide AMS with storage space to support its concession operations;**
 - (3) **Extend the term of the AMS Agreement from June 30, 2024 to June 30, 2026, to allow those concessions that currently are under the WDFG Agreement to remain in place until June 30, 2026, while retaining the AMS concession areas termination date of June 30, 2024.**
- (b) **Approve the Fifth Amendment to the WDFG Agreement to terminate the Agreement upon incorporation of the Airport retail concession areas currently operated by WDFG into the AMS Agreement under the same terms and conditions as the current WDFG Agreement.**
- (c) **Adopt a resolution authorizing the Director of Aviation to negotiate and execute amendments to the AMS Agreement at any time prior to its expiration to:**
- (1) **Rebalance the retail concessions area allowing for the maximization of retail revenue, improving customer service, and providing for an equitable bidding opportunity for future retail solicitations by revising the expiration date of the individual locations to either June 30, 2024 or June 30, 2026;**
 - (2) **Revise the Minimum Annual Guarantee Concession Fee to reflect any such revisions to ensure continued revenues for the City; and**

6.1 (Cont'd.)

- (c) (3) **Revise the Capital Investment and/or the Minimum Mid-Term Concession Refurbishment Expenditure consistent with any such changes to the concession areas.**

CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts, Services that involve no physical changes to the environment. (Airport)

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated March 13, 2017, recommending approval of Amendments to the concession agreements.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Chappie Jones, and carried unanimously, Resolution No. 78120, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Aviation to Amend the AMS-SJC JV Airport Retail Concession Agreement at any time prior to its Expiration on June 30, 2016 to (1) Rebalance the Retail Concessions Area in Order to Maximize Revenue and Provide for an Equitable Bidding Opportunity for Future Retail Solicitations by Revising the Expiration Date of the Individual Locations to Either June 30, 2024 or June 30, 2026; (2) Revise the Minimum Annual Guarantee Concession Fee; and (3) Revise the Capital Investment and/or the Minimum Mid-Term Concession Refurbishment Expenditure", was adopted. (10-1. Absent: Arenas.)

PUBLIC SAFETY SERVICES

- 8.1 **As recommended by the Rules and Open Government Committee on March 29, 2017, approve the timeline and initiate the process to recruit an Independent Police Auditor for the City of San José. CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities. (Mayor)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 30, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Public Comments: Walter Hudson, PACT Board Member, offered support to the process.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Sergio Jimenez and carried unanimously, the timeline and initiate the process to recruit an Independent Police Auditor for the City of San José, was approved. (10-1. Absent: Arenas.)

OPEN FORUM

Blair Beekman said a formal good-bye to Walter Katz and discussed ideas for the D-2 process while waiting for a new IPA.

ADJOURNMENT

The Council of the City of San José adjourned at 4:11 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

A handwritten signature in dark ink, appearing to read 'Toni J. Taber', is written over the printed name.

Toni J. Taber, CMC
City Clerk

rmk/04/04/17 MIN